

ORIGINAL

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U.S. DISTRICT COURT
DISTRICT OF WYOMING

JULY 23 PM 2:58

STEPHAN HARRIS, CLERK
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UNITED STATES DISTRICT COURT
DISTRICT OF WYOMING

UNITED STATES OF AMERICA,

Plaintiff,

v.

KELLEN MICHAEL SORBER,

Defendant.

CRIMINAL COMPLAINT

Case Number: 18-MJ-89-S

I, the undersigned complainant, being duly sworn, state the following is true and correct to the best of my knowledge and belief.

COUNT ONE

On or about September 6, 2018, in the District of Wyoming, the Defendant, **KELLEN MICHAEL SORBER**, maliciously damaged, by means of fire, the building at 214 East Ivinson Ave, Laramie, Wyoming, which is used in interstate commerce, in violation of 18 U.S.C. § 844(i).

I further state that I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms & Explosives and that this complaint is based on the following facts:

(See attached Sworn Statement)

Continued on the attached sheet and made a part hereof.



Signature of Complainant

C. ALEX BUEHLER

Sworn to before me and subscribed in my presence,

10/23/18
Date

at Cheyenne, Wyoming
City and State

HON. KELLY H. RANKIN
Chief Judge, United States Magistrate
Court
Name & Title of Judicial Officer


Signature of Judicial Officer

**SWORN STATEMENT IN SUPPORT OF CRIMINAL COMPLAINT
SPECIAL AGENT C. ALEX BUEHLER
U.S. v. Kellen Michael SORBER**

1. I, C. Alex Buehler, being duly sworn, depose and state that I am a Special Agent with the Bureau of Alcohol, Tobacco & Firearms and Explosives, under the Department of Justice. In 2005, I obtained a Bachelor of Science Degree. In 2009, I began my career in law enforcement as a deputy sheriff. In 2011, I was promoted to a detective within the Internal Affairs Division of the sheriff's office. There, I investigated violations of agency policy and the laws of the state of South Carolina. I also worked as a member of the Gang Task Force, which was a team comprised of state, local, and federal agents that focused their investigations on violent criminals, often involved in narcotics trafficking. In January 2015, I was hired as a Special Agent for the Bureau of Alcohol, Tobacco, Firearms and Explosives and was assigned to the Cheyenne, Wyoming Field Office. I am a graduate of the Federal Law Enforcement Training Center and the ATF National Academy.

2. As an ATF Special Agent, I am authorized to investigate violations of The Comprehensive Drug Abuse and Prevention and Control Act of 1970, Title 21, United States Code, Section 841; The Gun Control Act of 1968, Title 18, United States Code, Section 922; The Anti-Arson Act of 1982, Title 18, United States Code, Section 844; and violations of other federal laws. I have also acquired knowledge and information about such offenses, and the various means and methods by which they are furthered from numerous sources, including formal and informal training; from other law enforcement officers, investigators, and Special Agents; interviews of informants and arrestees; and interviews of other knowledgeable individuals.

3. This affidavit is intended to show only that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter.

PROBABLE CAUSE

4. At approximately 3:25am on September 6, 2018, N.M. called 911 and reported a fire inside 214 East Ivinson Ave., in Laramie, WY. The business occupying the space was the Albany County Republican Party Office. Another witness, G.M., observed smoke coming from the building as he was walking west on Ivinson Avenue. G.M. saw fire in the building and ran to a nearby restaurant to get water in an effort to extinguish the fire. G.M. was unable to get water from the restaurant and returned to the scene of the fire. Laramie Police Department (LPD) and Laramie Fire Department (LFD) were dispatched to the scene. LFD firefighters arrived and extinguished a small fire within the interior of the business. Firefighters also located a resident in a second floor apartment that was located above the Albany County Republican Party Office. The resident exited the property and reported no injuries to law enforcement.

5. LPD Detective Joel Senior responded to the scene and began processing the scene for evidence. Detective Senior observed a broken window located on the west side of the business, which faces an alley. Detective Senior found two pieces of a cinderblock inside of the business and a third piece of cinderblock on top of a dumpster that was in the alley, adjacent to the businesses broken window. Detective Senior also found a partially consumed Camel brand "Crush" cigarette on a table, the burnt remnants of a foldable camping-style chair, and burnt remnants of a Sprite soda can box, all inside of the business. These were collected as evidence and submitted to ATF laboratories for testing and analysis.

6. LPD notified the Federal Bureau of Investigations and the Bureau of Alcohol, Tobacco, Firearms and Explosives. Representatives from both agencies responded. ATF Special Agent Alex Buehler, ATF Certified Fire Investigator Brian Kempa, and other ATF agents began assisting in processing the fire scene and documenting the origin and cause of the fire.

7. Preliminary DNA testing results provided to SA Buehler indicated the presence of one DNA profile on the cigarette butt and one of the pieces of cinderblock found inside the business. The second piece of cinderblock inside the business and the piece of cinderblock located on the dumpster outside of the business had two DNA profiles on them. Again, based on preliminary testing, one of the two DNA profiles was notably stronger than the other profile and this stronger DNA profile was consistent with that of the single DNA profile found on the cinderblock and cigarette from within the business.

8. Through the course of the investigation, security surveillance video was obtained from Falcon Computers, a business located on the same block as the Albany County Republican Party Office and the Speedgoat Café. The three businesses share a common alley toward the west side of the businesses. In reviewing the surveillance video, SA Buehler noted that at approximately 2:19am, an unidentified individual walked a bicycle to the rear of the Speedgoat Café, parked the bicycle against the building and then threw a backpack onto the roof of the Speedgoat Café, a one-story business. This same person then picked up a rectangular object, an object that SA Buehler believes to be a cinderblock, and proceeded to drop it on the ground causing it to break into pieces. The individual proceeded to pick up several pieces of the broken object and walk the bicycle north in the alley, in the direction of the Albany County Republican Party Office, which is out of view of the security camera. At approximately 3:21am, a person with a bicycle and the same physical appearance as the person observed in the surveillance video at 2:19am, is observed walking in the alley, coming from the north. This person props the bicycle against the wall of the Speedgoat Café, stands on the bicycle, retrieves the backpack from the roof of the Speedgoat Café, and walks south in the alley, away from the Albany County Republican Party Office. Approximately four minutes later an individual is observed running from north to south, and, then seconds later, from south to

north, in the alley. The person running is consistent with the statement provided by G.M. when he described attempting to get water from a business in order to extinguish the fire.

9. Law enforcement officers from LPD reviewed this same security video. LPD Detective Taun Smith noted physical similarities between the person in the video and an individual he had previous contacts with in a law enforcement capacity. LPD and ATF agents conducted surveillance of, interviewed, and obtained a DNA sample from this individual. Subsequent DNA testing determined that this individuals' DNA was not on the cigarette or the three pieces of cinderblock recovered from the fire scene.

10. In reviewing various reports, other records, and social media accounts, SA Buehler noted physical similarities between the previous suspect and Kellen Michael SORBER. Both individuals were white males in their twenties or thirties, were similar in shape and stature, had similar facial hair, and both were employees at the Speedgoat Café. Further research of SORBER indicated that he did not have a driver's license or own a vehicle registered to him in the state of Wyoming, where he currently resides. With this knowledge, SA Buehler and other ATF agents began conducting surveillance of SORBER. On October 4, 2018, SORBER was observed sitting at the bar inside of the Speedgoat Café. In an undercover capacity, an ATF agent contacted SORBER inside of the establishment in order to develop additional evidence and surreptitiously obtain DNA from SORBER. During conversation with the undercover ATF agent, SORBER stated that he did not own a vehicle but used a bicycle as a means of transportation. The undercover ATF agent collected a beer can that SORBER drank from and abandoned while inside of the Speedgoat Café. The beer can was subsequently tested for DNA. Based on preliminary results provided to SA Buehler by the ATF Forensic Science Laboratory, one DNA profile was collected from the mouth of the beer can. The DNA profile collected from the beer can is consistent with the DNA

profile that was collected from the cigarette and three pieces of cinderblock collected from the fire scene at the Albany County Republican Party Office.

11. SA Buehler queried various law enforcement and public databases for phone numbers associated with SORBER. SA Buehler identified the cell phone number, also known as a subscriber number, 970-567-8713, as being assigned to Kellen SORBER on the Verizon Wireless cell phone network. During the course of the investigation SA Buehler also obtained cell tower records from the three major cell phone providers in the area of the Albany County Republican Party Office. In reviewing the cell tower records, SA Buehler noted that at approximately 3:37am on September 6, 2018, the cell phone with the subscriber number belonging to SORBER (970-567-8713), was determined to be approximately one-tenth of a mile from a cell tower that was located at 207 Grand Avenue, Laramie, Wyoming. Coincidentally, this cell tower is located adjacent to the Speedgoat Café, shares the same alley, and is on the same block as the Albany County Republican Party Offices. Further analysis of the cell tower records indicates that the cell phone with the subscriber phone number belonging to SORBER was within a 120 degree sector on the north face of the cell tower, which is the same direction and vicinity of the Albany County Republican Party Office. Based on interviews SA Buehler conducted with a manager and an owner of the Speedgoat Café, the establishment was not open for business during this time, nor was SORBER actively working at the establishment during this time of day on September 6, 2018.

12. On October 16, 2018, SA Buehler obtained a federal search warrant for the DNA of SORBER. On that same day, law enforcement officers executed the search warrant and obtained DNA directly from SORBER through buccal swabs. The buccal swabs were sent to the ATF Forensic Science Laboratory for comparison.

13. On October 22, 2018, SA Buehler was contacted by ATF Forensic Biologist Sarah Yearsley. Yearsley provided SA Buehler with preliminary test results from analyzing the DNA obtained directly from SORBER. The DNA profile collected from SORBER is consistent with the DNA profile that was collected from the Pabst Blue Ribbon beer can that SORBER drank from on October 4, 2018, which is also consistent with the DNA profile collected from the cigarette and three pieces of cinderblock found at the Albany County Republican Party Office fire scene.

14. ATF Special Agents Alex Buehler and Kyle LaTulippe interviewed J.G. and R.G., owners of the building where Albany County Republican Party Office was located. J.G. and R.G. stated that they owned the building for approximately four years and leased the unit where the Albany County Republican Party Office was located to an individual known to the government. J.G. and R.G. stated that they knew this individual subleased the unit to the Albany County Republican Party Office. J.G. and R.G. also stated that they rented the two apartments located above the Albany County Republican Party Office as a means of income. Based on the foregoing information and case law, SA Buehler determined that the building was used in interstate or foreign commerce.

15. ATF Certified Fire Investigator Brian Kempa informed SA Buehler that it was his expert opinion that the fire was classified as incendiary. An incendiary fire is defined by the National Fire Protection Association as, "A fire that is intentionally ignited in an area or under circumstances where and when there should not be a fire."

END OF SWORN STATEMENT

PENALTY SUMMARY

DEFENDANT NAME: KELLEN MICHAEL SORBER

DATE: November 14, 2018

INTERPRETER NEEDED: No

VICTIM(S): Yes

OFFENSE/PENALTIES: **18 U.S.C. § 844(h)**
(Using Fire to Commit a Felony)

At least 5 years to years to 20 years imprisonment
Up To \$250,000 Fine
3 Years Supervised Release
\$100 Special Assessment

AGENT: C. Alex Buehler, ATF

AUSA: Stuart S. Healy III, Assistant United States Attorney

ESTIMATED TIME OF TRIAL: 1 to 5 days

WILL THE GOVERNMENT SEEK DETENTION IN THIS CASE: Yes

ARE THERE DETAINERS FROM OTHER JURISDICTIONS: No